

REMARKS

Claims 1-4 are pending in the present application and are rejected. Claims 1 and 2 are herein amended. New claims 5-7 are herein added. No new matter has been added.

Applicants' Response to Claim Rejections under 35 U.S.C. §112

Claim 2 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is the position of the Office Action that the phrase "the same" is unclear. In response, Applicants herein amend claim 2 to clarify that the space maintaining device includes a contact member that changes a position of the space maintaining device when the contact member comes into contact with said surface side to be stuck with label and a single sensor for detecting a position change of the contact member. Favorable reconsideration is respectfully requested.

Applicants' Response to Claim Rejections under 35 U.S.C. §102

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by Szewczyk et al. (U.S. Patent No. 5,250,138).

It is the position of the Office Action that Szewczyk discloses the embodiment as claimed. Szewczyk is directed at a label applicator having automatic height positioning. As illustrated in Figure 3, Szewczyk discloses a labeler apparatus 70 which includes a label supply spool 78 and a label take-up spool 90 mounted on a labeler backplate 72. The labeler backplate

72 is moveable on guide rods 74. Also mounted on labeler backplate 72 is the label applicator and sensor assembly 94. This includes an application cylinder 96, which provides up-and-down movement, and motor 114 which provides rotational movement. In accordance with the position of the application cylinder 96, a presser foot 118 and an applicator pad 120 is moved, and may press a label 81 on an object. The position of the presser foot 118 is approximated based on the interaction between upper end 158 of vane 122 and the sensors 124 and 126.

In response to the pending rejection, Applicants herein amend the claims in order to more clearly recite the intended subject matter. In particular, Applicants recite a label supply unit including a label feed-out reel mounted on a first mounting plate and a drive unit mounted on a second mounting plate, and that the first and second mounting plates are stationary. Claim 1 is also amended to recite that the label sticking unit and the space maintaining unit, which are movable by the drive unit, move relative to the first and second mounting plates. As illustrated in Figure 1, label supply unit 11 includes a mounting plate 15, while drive unit 13 includes a mounting plate 32. The drive unit 13 drives the space maintaining device 14 and the label sticking unit 12 in a vertical direction (see small arrows). Thus, these elements move relative to the mounting plate 32. The mounting plate 32 and the mounting plate 15 are both stationary (note absence of arrows).

Applicants respectfully submit that this is sufficient to distinguish over Szewczyk. In Szewczyk, the spools 78 and 90, as well as all other elements such as the presser foot 118 and the applicator pad 120, are mounted on a single labeler backplate 72, which moves vertically on the guide rods 74. Thus, in Szewczyk, all elements are movable vertically. On the other hand, in the

claimed embodiments, the drive unit 13 and the label supply unit 11 are stationary, while only the space maintaining device 14 and the label sticking unit 12 are vertically movable. Therefore, for at least this reason, Applicants respectfully submit that claim 1 distinguishes over Szewczyk. Favorable reconsideration is respectfully requested.

Applicants' Response to Claim Rejections under 35 U.S.C. §103

Claims 2 and 3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Szewczyk et al. (U.S. Patent No. 5,250,138).

It is the position of the Office Action that Szewczyk discloses the embodiments as claimed, with the exception of teaching a single sensor. The Office Action states that this would have been obvious. Szewczyk discloses four sensors: presser foot detector sensor 124, application pad detector sensor 126, retract sensor 99 and limit extension sensor 97. However, in the claimed embodiment, only a single sensor is required. In response, Applicants respectfully submit that this would not have been obvious. As explained in MPEP 2144.04(II)(B), that the omission of an element and retention of its function is an indicia of unobviousness. *In re Edge*, 359 F.2d 896, 149 USPQ 556 (CCPA 1966). In part due to the structure of the arm 50, only a single sensor 47 is needed, but the function of approximating the vertical position of the label sticking unit 12 is retained. As such, Applicants respectfully submit that it would not have been obvious to utilize only a single sensor in the device of Szewczyk. Favorable reconsideration is respectfully requested.

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Szewczyk et al. (U.S. Patent No. 5,250,138) in view of Suzuki et al. (JP 08-034420).

It is the position of the Office Action that Szewczyk discloses the embodiments as claimed, with the exception of disclosing a roller disposed on the contact member. The Office Action relies on Suzuki to provide this teaching.

Suzuki is directed at an automatic labeling device. As illustrated in Figure 4(b), the device includes a label attaching mechanism 7, which includes a roller 18. This roller is positioned forward of an actuator 17 which holds a label A. However, the roller 18 only functions to press the label A firmly against the object to which it is attached. The roller 18 has no role in detection of the height of the label attaching mechanism. Accordingly, Applicants respectfully submit that it would not have been obvious to modify Szewczyk by including a roller to determine the high of the presser foot 118 or application pad 120. Favorable reconsideration is respectfully requested.

New Claims

In addition to the above, Applicants herein add new claims 5-7. Claim 5 recites the manner in which the label is held, and is supported at least by paragraph [0017]. Claim 6 recites that the driving unit includes a cylinder connected to two air supply sources, which allows for fast lowering and then slow lowering of the label sticking unit. This is supported at least by paragraph [0031]. Finally, claim 7 recites the structure of the space maintaining unit in greater detail, and is supported at least by Figure 3 and the corresponding text. Applicants respectfully

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Art Unit: 1791

Amendment
Attorney Docket No. 062519

submit that the cited art does not disclose or suggest any of this newly recited subject matter. Favorable consideration is respectfully requested.

For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

If the Examiner deems that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned attorney.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Ryan B. Chirnomas', is written over the printed name and title.

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